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WAR FOOD ADMINISTRATION
OFFICE OF DISTRIBUTION
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A NOTICE OF REPORT AND OPPORTUNITY TO FILE WRITTEN
EXCEPTIONS WITH RESPECT TO A PROPOSED MARKETING
AGREEMENT AND TO A PROPOSED AMENDED ORDER, REGULAT-
ING THE HANDLING OF MILK IN THE PHILADELPHIA, PENN-
SYLVANIA, MARKETING AREA

Pursuant to § 990.12 (a) of the rules of practice and procedure (7 OFR 1941, Supp., 900.1-900.17; 7.F.M. 3350; S F.R. 2615), Office of Distribution, War Food Administration, notice is hereby given of the filing with the hearing clerk of this report of the Director of Distribution with respect to a marketing agreement and to an amended order regulating the handling of milk in the Philadelphia, Pennsylvania, marketing area.

Interested parties may file exceptions to the report with the Hearing Clerk, Room 1331, Department of Agriculture, Washington, D. C., not later than the close of business on the 8th day* after publication of this notice in the Federal Register. Exceptions should be filed in quadruplicate.

The proceedings were initiated by the Office of Distribution upon receipt of a petition from the Inter-State Milk Producers Cooperative, Inc., for a public hearing to receive evidence on several amendments they proposed. Other amendments were also proposed by handlers. Following this request, and after consideration of the proposals, notice of the hearing was issued on January 13, 1943, and the hearings were held on January 23, 24, and 25, 1943, at Philadelphia, Pennsylvania.

Upon the record of this hearing the order was revised by increasing the Class I price. Action upon the other proposals was deferred until after further hearing.

In August 1943, the Inter-State Milk Producers Cooperative petitioned the War Food Administrator for a public hearing to receive evidence on the need for higher producer prices in the Philadelphia market. Later they submitted additional proposed amendments. Other amendments were proposed by handlers. Following these requests, and after consideration of the proposals, notice of hearing was issued on September 15, 1943, and the hearings were held on September 23, and 24, and October 5, 1943, at Philadelphia, Pennsylvania.

This hearing included, in addition to the industry proposals, consideration of several proposals for amendment made by the Dairy and Poultry Branch, Office of Distribution, upon some of which evidence had been received at the hearings held on January 23, 24, and 25, 1943, but upon which action was deferred until after further hearing.

On March 29, 1944, the hearing on these same issues was reopened at the instigation of the Dairy and Poultry Branch, Office of Distribution. The testimony at this hearing, March 29 and 30, 1944, brought up to date the facts relative to the issues on which action had been postponed.

*Later extended to 12th day.

The major issues developed at these hearings were concerned with (1) revision of the definition of handler and the definition of producer to conform to the needs of the market in relation to supplies, (2) the allocation to each class of milk transferred from one handler to another, (3) revision of the class prices, (4) price differentials for place of receipt of milk allowed handlers in purchasing milk from producers and used by them in distributing payments to producers, (5) the method of pricing Class I sales outside the marketing area, (6) the classification of milk received from sources other than producers, (7) flat price payments, (8) butterfat differentials used in paying producers, (9) premiums for Grade A milk, (10) the classification and pricing of so-called "distress" milk, (11) the basis of assessing handlers for the cost of administering the order, and (12) the substitution of a definition of "War Food Administrator" for the term "Secretary."

With respect to these issues it is concluded that:

(1) The definition of "producer" should be revised to describe more accurately the regular supplier of the fluid market. During the short period of production in the Philadelphia market for the past 2 years, handlers have purchased large quantities of milk from sources other than "producers" in order to supply the fluid requirements of the market. It has been necessary to purchase this extra milk for less than a full delivery period if the handler did not wish to extend his regular producer supply to include a so-called emergency source. As long as these supplies are of an emergency nature there appears to be no necessity for bringing them under the producer definition, nor is there any need for restricting such purchases beyond the protection afforded producers in the allocation of the Class II milk so that producers carry not more than 10 percent if a handler is purchasing emergency milk. The plant list has been amplified by adding to the listed producer milk plants those plants which supplied the market on more than 20 days during each of the delivery periods, October, November, and December, 1943. The confusion arising from the differentiation between "plants at which milk is received from producers" and "plants at which milk is not received from producers" should be removed by adding definitions of "producer milk plant" and "nonproducer milk plant."

(2) The maximum quantity of producers' milk transferred from one handler to another that may be allocated to Class II should be the total quantity of milk used by the purchasing handler in such class during the delivery period. This amendment would permit a handler who purchases milk through country plants to purchase surplus milk already in other handlers' city plants and keep his own Class II milk in the country plant. He would designate the milk purchased from other handlers as Class II although he may have used it as Class I in his city plant. This provision will maintain the same utilization of all producers' milk and will encourage savings in transportation of milk.

(3) No change should be made in the Class I price in view of the fact that the price program announced by the Director of Economic Stabilization in March 1943 restricts the adjustment of class prices to reflect changes in costs of producing milk. The dairy production program which is not inconsistent with the stabilization program provides for a direct subsidy payment to producers to cover the increased cost of producing milk. Rates of payment have been announced by the War Food Administrator for the period through March 1945.

The Class II price should be revised in order to bring the skim value of that class in line with the market value of skim milk which has increased materially due to the demand for skim milk solids for food. The increase should be accomplished by eliminating the animal feed factor from the skim milk powder price used in the price formula. The objection to eliminating the animal feed factor

from the skim milk value in the Philadelphia area while the New York market still retains the factor, has been considered. This objection hardly seems substantial enough to set aside the proposed adjustment in the price which handlers pay for skim milk used in those products which they carry as a part of their milk trade and ice cream business.

Class II skim at this proposed price will cost handlers less than skim milk solids in the form of condensed or powdered skim which handlers purchase at times to supplement skim milk in the manufacture of cottage cheese and ice cream.

The testimony relative to costs of handling Class II milk indicates that costs are not greater than the present formula allowance of $21\frac{1}{2}$ cents in the Class II butterfat value plus $33\text{--}3\frac{3}{4}$ cents in the skim milk formula. It is not necessary then to enhance the allowance by the use of a price which reflects less than the market value of the milk.

In order to avoid any disruption of the market for Class II milk while the New York pricing lags in adjustment, it is proposed that milk which is used in surplus milk manufacturing plants should take a lower price based on the prices paid by two evaporating plants and one milk chocolate manufacturer with plants in the Philadelphia milkshed. The products on which the lower price should be permitted during 6 months of the year are evaporated milk, milk chocolate, milk powder, non-fat dry milk solids, and cheese other than cottage cheese. This provision is recommended to provide for the sale of what is termed "distress milk" in the Philadelphia area. The seasonal provision should discourage the inclusion of manufacturing plants in a handler's pool on a year-round basis, but it is made broad enough to take care of the usual surplus milk period whether it comes late or early.

(4) Provisions governing zone price differentials allowed handlers should be rewritten in order to show more clearly how the allowances by classes of milk are combined to form the zone differentials affecting the cost of milk at various plants. The present order provides for certain differentials which apply to Class I milk, others which apply to Class II milk, and still others which apply to all milk regardless of use. The record shows that the price differentials for place of receipt of milk should be definitely related to the class in which the milk is used, in order to accomplish the goal of equal costs to each handler for each use of milk.

The Class I differential rates in the nearby area should be increased slightly to adjust for the fact that there would be no Class II deduction allowed. The present rates were established on the basis of the economic advantage to the producer in delivering 100 pounds of milk at one place or another. However, as the record indicates, this economic advantage is also related to the purchasing handler's percentage of total use in Class I. Therefore, the factors determining whether a producer will deliver to one place or another are both the cost of delivering the milk to each plant and the blend price at each plant. The blend price reflects the handler's percentage of use in Class I. The Class I differentials which would reflect the cost of handling all milk have been established according to the average utilization of Class I and Class II in the area. This method would permit the handler in the nearby area who has a higher than average use of Class I milk to buy his milk at slightly less than he is now paying. Producers should not object to this since a 10 percent above average use of Class I would be needed to permit a handler to deduct an additional cent per 100 pounds more than he is now deducting, and at present prices the 10 percent higher use would result in a price 8 cents above the average.

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The characteristics of handlers' plants were discussed fully in the record and this testimony confirms the soundness of the use of the plant location as the best method of establishing differentials which affect the price of milk at different places of receipt.

Since the plant handling allowance for receiving milk and separating cream exceeds the Class I allowance by $2\frac{1}{2}$ cents per hundredweight, the 3-cent extra handling allowance does not appear to be necessary for the handling of Class II milk in the country. It was proposed that the extra 3 cents be dropped from the country handling allowance on all milk but conclusive evidence that the factor should be dropped was not developed.

A proposed amendment to the order would have reestablished the rule for applying class price zone differentials on the basis that milk nearest the marketing area is Class I. The evidence in the record does not justify the adoption of such an amendment. Since the pattern of the Philadelphia market is such that nearby milk is not considered by handlers to be more valuable for Class I sales (excluding handling and transportation costs), no particular group of producers can be designated as more entitled to the Class I market than another group. Each group then is entitled to an equal share of the Class I utilization and must bear an equal share of the Class II utilization and the cost of getting their Class I milk and Class II cream to the market. The proposed amendments would reflect to the producers the value of their milk as handlers pay for it. This recommended change in the application of differential payments would make more explicit their effect upon producers' prices. It would do away with the device in the present order which has operated to enhance the price at country stations at the expense of the price at the city.

(5) The out-of-area price structure should be retained. Due to the rigidity of prices under the stabilization program, it is not considered advisable to drop the out-of-area price structure at this time.

(6) A handler should be permitted to allocate milk received from sources other than producers to Class I if he does not have in his producer plant system more than 10 percent of producers' milk used in Class II. If producers are not supplying the market, it does not appear to be reasonable to require nonproducer milk to carry all of the reserve for Class I use which falls into Class II. On the other hand, producers who regularly supply the market should be protected from the influence of these irregular supplies on their blend price. The 10 percent reserve represents the amount of Class II carried in relation to all Class I during the short months of 1942.

(7) The flat price payment plan should be removed from the order since it was not used by handlers to avoid keeping records of utilization as the authors of the order intended and it might be used now to circumvent the order by paying a lower price than would otherwise be required.

(8) The butterfat differential to be used in paying producers should be increased from 4 to 5 cents per point in order to bring it more in line with the increases in the price paid to producers for milk and the increased cost of butterfat to handlers. The average minimum price paid to producers has increased steadily since April 1942. The butterfat differential paid by handlers has risen during the same period from $4\frac{1}{2}$ cents to as much as 7 cents.

(9) The plan for Grade A premiums should not be changed upon the evidence in the record at this time. There are indications in the record that a uniform method of distributing these payments to producers should be prescribed by the order

but the information regarding the various payment plans which now are in operation is not sufficiently complete to form the basis for establishing a uniform system.

(10) The disposition of milk which is in excess of the fluid needs of the market should be expedited by the removal of the rule which limits the outlet for such milk to plants which have disposed of less than 20 percent of their receipts as fluid milk. The provision should be amended to require that the purchasing plant show that a quantity of milk has been manufactured which is equal to the quantity received from the producer milk plant. The "20 percent rule" was not intended to limit the outlets for surplus milk. It was considered a "rule of thumb" to characterize a plant that would be buying milk for use in manufacturing. The rule appears to be more confining than is necessary under present circumstances.

(11) The basis of assessment should be all milk received from producers at producer milk plants and all milk received from nonproducer milk plants which is allocated to Class I utilization. This will apportion the cost of administering the order more equitably over all handlers since some handlers purchase substantial quantities of nonproducer milk to supplement their supplies from producers.

(12) A definition of "War Food Administrator" should be substituted for "Secretary" since the powers and duties of the Secretary with respect to functions required by the Agricultural Marketing Agreement Act of 1937 have been transferred to the War Food Administrator by Executive Orders of the President of the United States. The definition provides for the continued operation of the order under the authority of some other "officer or employee of the United States Department of Agriculture" in the event that the powers and duties pursuant to the act are again transferred.

(13) The duty of the market administrator with respect to making investigations of marketing problems should be cited in the order. Producers and handlers indicated in the record that certain problems required thorough study.

The following proposed amended order is recommended as the detailed means by which these conclusions may be carried out. The proposed marketing agreement is not included in this report because the proposed amendments applicable to it would be the same as those set forth below with respect to the amended order.

PROPOSED AMENDED ORDER REGULATING THE HANDLING OF MILK
IN THE PHILADELPHIA, PENNSYLVANIA, MARKETING AREA

It is found upon the evidence introduced at the public hearing held on January 23, 24, and 25, September 23 and 24, and October 5, 1943, and March 29 and 30, 1944, Philadelphia, Pennsylvania:

1. That the order, as hereby amended, will regulate the handling of milk in the same manner as and is applicable only to handlers defined in a marketing agreement upon which a hearing has been held; and

2. That the issuance of this amended order and all the terms and conditions of the amended order tend to effectuate the declared policy of the act.

PROVISIONS

§ 961.1 Definitions. (a) Terms. The following terms shall have the following meanings:

(1) The term "act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

(2) The term "War Food Administrator" means the War Food Administrator of the United States or any officer or employee of the United States Department of Agriculture who is, or who may hereafter be, authorized to exercise the powers or to perform the duties of the War Food Administrator hereunder.

(3) The term "Philadelphia, Pennsylvania, milk marketing area," hereinafter called "the marketing area," means all the territory in the Commonwealth of Pennsylvania situated within the following boundary line:

Beginning at a point in the Pennsylvania State line opposite the confluence of Pennypack Creek with the Delaware River; thence along Pennypack Creek to the boundary of Montgomery County; thence northerly along the boundary of Montgomery County to the Bucks County line; thence westerly along the Bucks County line to the Trenton cutoff of the Pennsylvania Railroad; thence westerly along said railroad to the Upper Dublin Township line; thence first easterly, and then southerly, along the Upper Dublin Township line; then northeasterly to the Whitemarsh Township line; thence southerly along the Whitemarsh Township line to the Schuylkill River; thence westerly along the Schuylkill River to West Conshohocken Borough; thence westerly along the southern border of West Conshohocken Borough to the Upper Merion Township line; thence along the Upper Merion Township line as it runs to the Delaware County line; thence southeasterly along the Delaware County line as it runs to and along Brandywine Creek and the Delaware State line to the Delaware River; thence northeasterly along the Pennsylvania State line to the Delaware River to the point of beginning.

(4) The term "person" includes any individual, partnership, corporation, association, or any other business unit.

(5) The term "producer" means any person, irrespective of whether such person is also a handler, who produces milk which is received directly at a producer milk plant.

(6) The term "producer milk plant" means:

(i) A plant which is operated by a handler at a location listed below, or any other plant from which milk was shipped during the delivery periods of October, November, and December, 1943, on 20 days or more in each delivery period to a pasteurizing or bottling plant which disposed of Class I milk in the marketing area, except (a) during such period of time as any such plant has been stopped by the Pennsylvania Department of Health from shipping milk or cream for consumption as fluid milk or fluid cream, or (b) during any month when no milk or cream is disposed of in the marketing area from such a plant, if the handler has notified the market administrator 5 days or more prior to such month that it is no longer a part of his supply for the marketing area and if no milk or cream has been shipped from it to the marketing area for the 3 months next preceding such month; or

(ii) A pasteurizing and bottling plant from which milk is disposed of as Class I milk in the marketing area; or

(iii) Any other plant of a handler from which milk is supplied to such a pasteurizing and bottling plant: Provided, That shipments of milk have been made from the plant to the pasteurizing and bottling plant on more than 20 days during each of the three previous delivery periods, and provided that the handler operating such plant has filed a statement with the market administrator declaring that the milk at such plant is a regular supply for the Philadelphia market and farmers delivering such milk should be considered producers. A plant determined in this manner to be a producer milk plant shall thenceforth be affected by and subject to all regulations affecting producer milk plants as described under (i) of this paragraph.

Location: Bedford, Pa., Boiling Springs, Pa., Brandtsville, Pa., Byers, Pa., Carlisle, Pa., Chambersburg, Pa., Clayton, Del., Coudersport, Pa., Curryville, Pa., Delta, Pa., Denton, Md., Easton, Md., Fairdale, Pa., Glenroy, Pa., Goldsboro, Md., Goshen, Pa., Hagerstown, Md., Harrington, Del., Honeybrook, Pa., Huntington, Pa., Hurlock, Md., Kelton, Pa., Kimberton, Pa., Leamon Place, Pa., Lewistown, Pa., Mainland, Pa., Massey, Md., Mercersburg, Pa., Millville, Pa., Mt. Pleasant, Del., Nassau, Del., New Holland, Pa., Oxford, Pa., Port Allegany, Pa., Pottstown, Pa., Princess Anne, Md., Quakertown, Pa., Richlandtown, Pa., Snow Hill, Md., Spring Creek, Pa., Sudlersville, Md., Townsend, Del., Waynesboro, Pa., Morton, Md.

This definition shall not be deemed to include a plant at which milk is received directly from producers defined under an order of the Secretary regulating the handling of milk in the New York metropolitan milk marketing area.

(7) The term "nonproducer milk plant" means any plant other than those described under § 961.1 (a) (6).

(8) The term "handler" means any person irrespective of whether such person is also a producer or an association of producers, wherever located or operating, who engages in the handling of milk which is disposed of in the marketing area.

(9) The term "market administrator" means the person designated pursuant to § 961.2 as the agency for the administration hereof.

§ 961.2 Market administrator. (a) Designation. The agency for the administration hereof shall be a market administrator who shall be a person selected by the War Food Administrator. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the War Food Administrator.

(b) Powers. The market administrator shall have power:

(1) To administer the terms and provisions hereof, and

(2) To receive, investigate, and report to the War Food Administrator complaints of violations of the terms and provisions hereof.

(c) Duties. The market administrator shall:

(1) Keep such books and records as will clearly reflect the transactions provided for herein and shall surrender the same to his successor or to such other person as the War Food Administrator may designate;

(2) Submit his books and records to examination by the War Food Administrator at any and all times;

(3) Furnish such information and verified reports as the War Food Administrator may request;

(4) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the War Food Administrator a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the War Food Administrator;

(5) Publicly disclose to handlers and to producers, unless otherwise directed by the War Food Administrator, the name of any person who, within 15 days after the date upon which he is required to perform such acts, has not (i) made reports pursuant to § 961.5 (a), or (ii) made payments pursuant to § 961.8;

- (6) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;
- (7) Obtain a bond with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;
- (8) Pay, out of the funds provided by § 961.9, (i) the cost of his bond and of the bonds of such of his employees as handle funds entrusted to the market administrator, (ii) his own compensation, and (iii) all other expenses which will necessarily be incurred by him for the maintenance and functioning of his office and the performance of his duties; and
- (9) Promptly verify the information contained in the reports submitted by handlers.
- (10) At the request of the War Food Administrator, investigate supply, demand, organization, structure, and other economic aspects of the market and furnish information relative to proposals for amendments to the terms and provisions hereof.

§ 961.3 Classification of milk. (a) Basis of classification. Milk received by each handler, including milk produced by him, if any, shall be classified, in the classes set forth in paragraph (b) of this section, in accordance with its utilization by such handler, subject to paragraphs (c), (d), and (e) of this section.

(b) Classes of Utilization. The classes of utilization of milk shall be as follows:

(1) Class I milk shall be all milk (i) sold, distributed, or disposed of as or in milk, including sales of skim milk and flavored milk drinks, containing not more than 18 percent butterfat and including all milk or skim milk disposed of from a handler's plant to retail establishments which dispose of milk for both fluid and other uses, and (ii) all other milk not accounted for as Class II.

(2) Class II milk shall be (i) all milk disposed of in products other than those included in § 961.3 (b)(1)(i), and (ii) all milk accounted for as actual plant shrinkage but not to exceed 2 percent of the milk received from producers: Provided, That if milk or cream is received from producers, from other handlers, or from other plants, such actual shrinkage shall be prorated between the milk received from each source in proportion to the volume of milk and cream received from each.

(c) Transfers of milk. Milk or skim milk transferred to another handler or to a nonproducer milk plant shall be Class I unless such milk was disposed of for use in Class II products and the receiving handler or nonproducer plant has used in such products a quantity of milk or skim milk equivalent to the milk or skim milk received during the month from producer milk plants under an agreement for use in Class II products.

(d) Transfers of cream. Cream received or disposed of by a handler shall be considered Class II, and the pounds of butterfat in cream received during the month shall be allocated to the butterfat used to make butter before any butterfat in milk received is allocated to butterfat used to make butter.

(e) Allocation of milk or skim milk received at producer milk plants from nonproducer milk plants.

(i) The Class I utilization of a handler may be reduced by the amount of milk or skim milk received from nonproducer milk plants: Provided, That the utilization of all producers' milk in all of the handlers producer milk plants during the

month is not less than 90 percent Class I.

(ii) The Class II utilization of a handler in butter, evaporated milk, milk powder, nonfat dry milk solids, milk chocolate, and cheese other than cottage cheese, shall be reduced by the amount of milk or skim milk received from nonproducer milk plants during the month, which milk or skim milk has not been allocated to Class I utilization under § 961.3 (e)(i).

§ 961.4 Minimum prices. (a) Class prices. Except as set forth in subparagraph (e) of this section, each handler shall pay, at the time and in the manner set forth in § 961.8, for milk received during each month from producers or an association of producers not less than the following prices, subject to the differentials set forth in paragraphs (c) and (d) of this section:

(1) Class I milk — \$4.05 per hundredweight.

(2) Class II milk — The price per hundredweight during each month shall be the sum of the respective values of butterfat and skim milk, calculated as follows by the market administrator:

(i) Butterfat — Add all market quotations (using midpoint of any weekly range as one quotation) of prices for a 40-quart can of sweet cream approved either for Pennsylvania only, or for Pennsylvania, Newark, and Lower Merion Township, in the Philadelphia, Pennsylvania, market, reported for each week ending within the month by the United States Department of Agriculture (or such other Federal agency as is authorized to perform this price reporting function), divide by the number of quotations, subtract 28 cents, divide by 33.48, multiply by 4, and subtract $23\frac{1}{2}$ cents: Provided, That for butterfat used to make butter, the price shall be 4.8 times the average of the 92-score butter at wholesale in the New York market, reported daily by the United States Department of Agriculture (or such other Federal agency as is authorized to perform this price reporting function), for the month for which payment is to be made, which shall be known as the "butter-value" for such butterfat.

(ii) Skim milk — Any plus amount which is equal to 7.5 times the average of all hot roller process nonfat dry milk solids quotations for "other brands, human consumption," carlots, bags, or barrels (using midpoint of any range as one quotation), as published for such month in the "Producers' price Current," less 4.5 cents: Provided, That for skim milk in milk or skim milk used to make evaporated milk, milk chocolate, milk powder, nonfat dry milk solids, and cheese, other than cottage, pot, and baker's cheese, during the months of March, April, May, June, July, and August the skim milk value shall be reduced by any plus amount determined as follows:

(a) Adjust the Class II price otherwise applicable under this paragraph by the butterfat differential determined under 961.4 (c) to arrive at a price for milk of 3.5 percent butterfat content, and

(b) Subtract from that price the average of the basic prices paid to farmers for milk of 3.5 percent butterfat f.o.b. the following plants:

Pet Milk Company, Greensboro, Maryland
Hershey Chocolate Company, Hershey, Pennsylvania
Carnation Company, Cambridge Springs, Pennsylvania

(b) Emergency price provision. Whenever the provisions hereof require the market administrator to use specific price (or prices) for milk or any milk product for the purpose of determining class prices or for any other purpose, the market administrator shall add to the specified price the amount of any subsidy or other

similar payment, being made by any Federal agency in connection with the milk, or product, associated with the price specified: Provided, That if for any reason the price specified is not reported or published as indicated, the market administrator shall use the applicable maximum uniform price established by regulations of any Federal agency plus the amount of any subsidy or other similar payment: Provided further, That if the specified price is not reported or published and there is no applicable uniform price, or if the specified price is not reported or published and the War Food Administrator determines that the market price is below the applicable maximum uniform price, the market administrator shall use a price determined by the War Food Administrator to be equivalent to or comparable with the price specified.

(c) Butterfat differential. The Class I and Class II prices shall be subject to a butterfat differential for each one-tenth of 1 percent variation above or below 4.0 percent calculated as follows: divide the average of the cream quotations used in calculating the Class II price by 334.8, and subtract 0.67 cent; or in the case of butterfat in Class II to which the "butter-value" is applicable, divide the "butter-value" by 40.

(d) Differentials for place of receipt of milk. The prices set forth in paragraph (a) of this section except Class II milk used to make evaporated milk, milk chocolate, milk powder, nonfat dry milk solids, and cheese, other than cottage cheese, during the months of March, April, May, June, July, and August, shall be reduced by the amounts set forth below for milk received from producers at producer milk plants located in the zones for which deductions are shown. If the deduction for Class I milk results in a price for Class I milk at any plant below the price of Class II milk at that plant, the allowable deduction shall be reduced by the amount by which such Class II price exceeds such Class I price:

<u>Zone</u> (Miles)	<u>Deduction</u>	
	<u>Class I milk</u> (Cents)	<u>Class II milk</u> (Cents)
0 - 11	0	0
11.1 - 16	9	0
16.1 - 21	11	0
21.1 - 26	13	0
26.1 - 31	15	0
31.1 - 40	34	4
40.1 - 50	35	4
50.1 - 60	36	4
60.1 - 70	37	4
70.1 - 80	38	5
80.1 - 90	39	5
90.1 - 100	40	5
100.1 - 110	41	5
110.1 - 120	42	5
120.1 - 130	43	5
130.1 - 140	44	5
140.1 - 150	45	6
150.1 - 160	46	6
160.1 - 170	47	6
170.1 - 180	48	6
180.1 - 190	49	6
190.1 - 200	50	6
200.1 - 210	51	6
210.1 - 220	52	7
220.1 - 230	53	7

<u>Zone</u> (Miles)	<u>Deduction</u>	
	<u>Class I milk</u> (Cents)	<u>Class II milk</u> (Cents)
230.1 - 240	54	7
240.1 - 250	55	7
250.1 - 260	56	7
260.1 - 270	57	7
270.1 - 280	58	7
280.1 - 290	59	8
290.1 - 300	60	8
300.1 - 310	61	8
310.1 - 320	62	8
320.1 - 330	63	8
330.1 - 340	64	8
340.1 - 350	65	8
350.1 - 360	66	9
360.1 - and over	67	9

For the purpose of this paragraph, the Class II milk at each plant of a handler who receives milk from more than one plant shall be determined to be that milk used or disposed of in Class II at such plant which is not a bottling and pasteurizing plant, plus a prorata share of Class II milk at the handler's bottling and pasteurizing plant in proportion to the total receipts at the latter plant which were received from the producer milk plant.

The distance of any plant from the City Hall in Philadelphia shall be that recognized by the Interstate Commerce Commission for rate making purposes on highways over which the Highway Departments of the several States permit milk tank trucks to move, or if no such distance is recognized, the distance shall be that ascertained and announced by the market administrator.

(e) Class I milk disposed of outside the marketing area. The price to be paid by handlers for Class I milk disposed of outside the marketing area on any wholesale or retail routes from which no milk is disposed of in the marketing area on the same trip, in lieu of the price otherwise applicable pursuant to this section, shall be, as ascertained by the market administrator, such price as is being paid to farmers in the market where such milk was disposed of, for milk of equivalent use, less the applicable transportation allowance in such outside market, but in no case more than 64 cents: Provided, That Class I milk disposed of in markets where the market administrator is unable to determine such a price, and to Government institutions and establishments on a basis of bids, the Class I price plus or minus the applicable differentials specified in this order shall apply: And provided further, That when sold in an area regulated by another marketing order of the Secretary the price effective under such order shall apply.

§ 961.5 Reports of handlers. (a) Periodic reports. On or before the 8th day after the end of each month each handler, with respect to milk or cream which was, during such month, (1) received from producers, handlers, or other sources; and (2) produced by such handler, shall report to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(i) The receipts at each plant from producers who are not handlers;

(ii) The receipts at each plant from any other handler, including any handler who is also a producer;

(iii) The quantity, if any, produced by such handler;

(iv) The receipts at each plant from any other source;

(v) The respective quantities of milk and milk products disposed of or on hand, with the butterfat content thereof, including the quantities of milk, skim milk, or cream disposed of to each nonproducer milk plant for use in each class; and

(vi) The shipments of milk to the marketing area from each plant.

(b) Reports of handlers who receive no milk from producers. Handlers who receive no milk from producers shall make reports to the market administrator at such time and in such manner as the market administrator may require.

(c) Reports as to producers. Each handler shall report to the market administrator:

(1) Within 10 days after the market administrator's request, with respect to any producer for whom such information is not in the files of the market administrator, and with respect to a period or periods of time designated by the market administrator, (i) the name and address, (ii) the total pounds of milk received, (iii) the average butterfat test of milk received, and (iv) the number of days upon which milk was received; and

(2) As soon as possible after first receiving milk from any producer, (i) the name and address of such producer, (ii) the date upon which such milk was first received, and (iii) the plant at which such milk was received.

(d) Reports of payments to producers. Each handler shall submit to the market administrator on or before the 25th day after the end of each month his producer payroll for such month which shall show for each producer (1) the net amount of such producer's payment with the prices, deductions, and charges involved, and (2) the total delivery of milk with the average butterfat test thereof.

(e) Outside cream purchases. Each handler shall report as requested by the market administrator his purchases, if any, of sweet cream showing the quantity and source of each such purchase and the cost thereof at Philadelphia.

(f) Verification of reports. Each handler shall permit the market administrator or his agent, or such other person as the Secretary may designate, during the usual hours of business, to (1) verify the information contained in reports submitted in accordance with this section, and (2) weigh milk received from each producer and sample and test milk for butterfat. In establishing the classification of milk as required in § 961.3, the burden rests upon the handler who receives milk from producers to account for the milk and to prove to the market administrator that such milk should not be classified as Class I milk.

§ 961.6 Application of provisions. (a) Handlers who receive no milk from producers. The provisions hereof, except those set forth in § 961.5, shall not apply to a producer-handler who receives no milk from producers nor to a handler whose sole source of milk supply consists of receipts from other handlers.

§ 961.7 Determination of uniform prices to producers. (a) Computation of the value of milk for each handler. For each month the market administrator shall compute, subject to the provisions of § 961.6, the value of milk of producers disposed of by each handler, by (1) multiplying the hundredweight of such milk in each class, computed pursuant to § 961.3, by the prices applicable pursuant to § 961.4, plus or minus the applicable differentials in § 961.4; and (2) adding together the resulting values.

(b) Computation and announcement of uniform price for each handler. The market administrator shall compute and announce for each handler the uniform price per hundredweight of milk received by him at each plant from producers during each month as follows:

(1) Add to the value computed pursuant to paragraph (a) of this section the amount of the adjustment to be made pursuant to § 961.8 (d), and add or subtract the amount to be subtracted or added, respectively, by the handler pursuant to § 961.8 (c);

(2) Divide the amount computed in subparagraph (1) of this paragraph by the total quantity of milk received from producers, including milk of his own production; and

(3) On or before the 15th day after the end of each month, notify each handler and publicly announce the uniform price computed for each handler pursuant to this section with the differentials applicable pursuant to § 961.8.

§ 961.8 Payments for milk. (a) (1) Semimonthly payments. On or before the last day of each month each handler shall make payment to producers for milk delivered during the first 15 days of such month at not less than a rate per hundredweight which he estimates will be his uniform price for such month.

(2) Final payment. On or before the 20th day after the end of each month, each handler shall make full payment, subject to paragraphs (c), (d), and (e) of this section, to each producer, for the total value of milk received from such producer during such month, at not less than the uniform price per hundredweight computed for such handler pursuant to § 961.7, after taking credit for payment made pursuant to § 961.8 (a) (1).

(b) Errors in payment. Errors in making payments for milk shall be corrected not later than the date for making payments next following the determination of such errors.

(c) Butterfat differential. If any handler has received from any producer, during the month, milk having an average butterfat content other than 4.0 percent, such handler, in making payments pursuant to paragraph (a) of this section, shall add to the uniform price for such producer for each one-tenth of 1 percent of average butterfat content in milk above 4.0 percent not less than, or shall deduct from the uniform price for such producer for each one-tenth of 1 percent of average butterfat content in milk below 4.0 percent not more than 5 cents per hundredweight.

(d) Location differentials. In making payments pursuant to paragraph (a) of this section each handler shall deduct from payments to producers delivering milk to a plant located in a mileage zone as set forth in § 961.4 (d) a differential equal to the percentage of the pounds of all milk received from producers which was used in Class I times the Class I differential rate pursuant to § 961.4 (d) at such plant plus the percentage of Class II at the Class II rate pursuant to § 961.4 (d).

(e) Premium for Grade A milk. In addition to the uniform price and all other payments required pursuant to this section, each handler shall pay for milk, which is qualified under the Commonwealth of Pennsylvania Department of Health or the New Jersey Department of Health requirements for sale as Grade A milk and which is delivered to a plant similarly qualified (so long as such requirements are in effect as a separate grade), 40 cents per hundredweight of Grade A milk received from producers of 10,000 bacteria or less per c. c. and 25 cents per hundredweight of grade A milk received from producers of more than 10,000 but less than 25,000 bacteria, times the ratio of Grade A milk sold either in fluid form or as products

manufactured from Grade A milk to the total quantity of Grade A milk received from producers, plus 2 cents for each one-tenth of 1 percent that the butterfat content is above 3.7 percent.

§ 961.9 Expense of administration. (a) Payments by handlers. As his prorate share of the expense of the administration hereof, each handler receiving milk from producers, on or before the 20th day after the end of each month shall pay to the market administrator, with respect to all milk received by such handler directly from producers, and all milk received from nonproducer milk plants which is allocated to Class I under § 961.3 (e), an amount not exceeding 2 cents per hundredweight, the exact amount to be determined by the market administrator subject to review by the War Food Administrator. Each handler who is a cooperative association of producers, shall pay such prorata share of expense only on that milk received from producers at any plant of such association.

§ 961.10 Agents. The War Food Administrator may, by designation in writing, name any officer or employee of the United States or name any bureau or division of the United States Department of Agriculture to act as his agent or representative in connection with any of the provisions hereof.

This report filed at Washington, D. C., this 28th day of June, 1944.

C. W. Kitchen
Acting Director of Distribution

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